

A nonprofit cooperative organization whose activities consist of selling electrical materials, equipment, and supplies, and furnishing equipment manufacturing, repairing, testing, and other services to its members is not a 'like organization' within the meaning of section 501(c)(12) of the Internal Revenue Code of 1954, and therefore does not qualify for exemption from Federal income tax under that section of the Code notwithstanding that its membership is limited to organizations exempt under such section of the Code.

Also, a cooperative housing organization operated for the personal benefit of its tenant-owner members is not a 'like organization', and does not qualify for exemption from Federal income tax.

Advice has been requested whether a cooperative corporation organized for the purposes described below qualifies for exemption from Federal income tax as a 'like organization' under section 501(c)(12) of the Internal Revenue Code of 1954.

The membership of the instant organization is limited to cooperative corporations and its managing directors consist of one representative from each member cooperative. The organization is operated on a cooperative nonprofit basis for the mutual benefit of its patrons, and is obligated to account on a patronage members, the manufacturing or amounts received and receivable from the furnishing of goods or services in excess of operating costs and expenses.

The organization was formed for the following purposes: to engage in any activity in connection with the marketing of agricultural products produced or delivered to it by its members, the manufacturing or marketing of the byproducts of these products, the purchasing of supplies and equipment, or the financing of such activities; to promote and encourage the use of electric energy in rural areas by manufacturing and making available to its member cooperatives and their members, electric devices, equipment, wiring, appliances, fixtures, material, supplies of all kinds, and machinery; to purchase, acquire, own, sell, and dispose of real and personal property to accomplish its purposes; to incur indebtedness on property; and to assist its members in all activities in connection with the purchase or use of supplies and equipment or in the financing of any of these activities.

Its activities consist of selling electrical materials, equipment, and supplies, and furnishing equipment manufacturing, repairing, testing, and other services to its members and to persons who are not its members.

Section 501(c)(12) of the Code describes certain organizations exempt from Federal income tax under section 501(a)

of the Code and reads as follows:

(12) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

The issue in the instant case is whether the cooperative organization described above, is a 'like organization' within the meaning of section 501(c)(12) of the Code.

In *New Jersey Automobile Club v. United States*, 181 Fed.Supp. 259 (1960), certiorari denied, 366 U.S. 964 (1960), it was held that an automobile club was not exempt from Federal income tax under section 101(10) of the Internal Revenue Code of 1939, which corresponds to section 501(c)(12) of the 1954 Code. The court stated that it felt Congress intended to exempt organizations which were like 'benevolent life insurance associations of a purely local character,' or like 'mutual ditch or irrigation companies,' or like 'mutual or cooperative telephone companies,' and not merely organizations which were like the distilled essence of these three relative noncomparables.

The court further stated, 'that an automobile club is too well known and too important for us to presume that the Congress would set forth in detail a variety of specific organizations entitled to exemption under the 19 subsections of section 101 and intend that an automobile club should be included in the general expression 'like organizations' contained in subsection (10).'

In the case of *Consumers Credit Rural Electric Cooperative Corporation v. Commissioner*, 37 T.C. 136 (1961), affirmed by the United States Court of Appeals for the Sixth Circuit on July 2, 1963, it was held that an organization formed by exempt rural electric cooperatives to finance purchases of electrical, water, or plumbing appliances or systems by customers of the cooperatives, was not exempt as a 'like organization' under section 501(c)(12) of the Code. The fact that the member cooperatives qualified under the statute did not automatically confer tax exemption upon the organization which, in order to obtain tax exemption, also has to qualify under the statute.

In view of the above decisions, it is clear that the term 'like organizations' as used in the statute is limited by the types of organizations specified in the statute, and is applicable only to those mutual or cooperative organizations which are engaged in activities similar in nature to the benevolent insurance or public utility type of service or business customarily conducted by the specified organizations.

Accordingly, while the activities engaged in by the instant

organization may be mutually desirable, and may be performed individually by the member cooperatives as an incident to their customary and primary function, such services and activities are not similar in nature to those customarily performed by a mutual ditch or irrigation company, or a mutual or cooperative telephone company, and, consequently, the organization does not qualify for exemption from Federal income tax as a 'like organization' under section 501(c)(12) of the Code.

The conclusion with respect to the term 'like organizations,' also applies in the case of a cooperative organization which operates and maintains a housing development and provides housing facilities and maintenance services on a cooperative basis for the personal benefit of its tenant-owner members. Such organization does not qualify for exemption as an organization described in section 501(c)(12), or any other provision, of the Code. Cf., *Commissioner v. Lake Forest, Inc.*, 305 Fed. (2d) 814 (1962) and *New Jersey Automobile Club v. United States*, *supra*.